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BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of:)	ESCROW LICENSE NO. 963-2059
)	
THE COMMISSIONER OF BUSINESS)	STATEMENT OF FACTS IN SUPPORT OF
OVERSIGHT,)	ORDER TO DISCONTINUE VIOLATIONS
)	PURSUANT TO FINANCIAL CODE
Complainant,)	SECTION 17602 AND NOTICE OF INTENT
)	TO MAKE ORDER FINAL
v.)	
)	
CITADEL ESCROW INC)	
)	
Respondent.)	

The Complainant, the Commissioner of the Department of Business Oversight ("Commissioner"), is informed and believes and based upon such information and belief, alleges and charges as follows:

I

Introduction

1. Citadel Escrow Inc ("Citadel Escrow") is a California corporation and an escrow agent licensed by the Commissioner under the Escrow Law of the State of California (Fin. Code, §

1 17000 et seq.) ("Escrow Law"). Citadel Escrow (formerly known as First Request Escrow, Inc.)
2 received its escrow agent's license on March 9, 2004.

3 2. Citadel Escrow's principal place of business is 2910 E. Inland Empire Boulevard,
4 Suite 110, Ontario, California 91764. Citadel has two approved branch offices located at: (a) 17100
5 Pioneer Blvd., Suite 312, Artesia, California 90701; and (b) 7910 Girard Ave., #8, La Jolla,
6 California 92037.

7 3. Peter Hom ("Hom") purchased First Request Escrow in 2012, and began operating
8 Citadel Escrow. Hom has been Citadel Escrow's sole owner, sole director, and president since 2012.

9 II

10 Factual Background

11 a. Citadel Escrow Operated an Unlicensed Branch in Porter Ranch, California

12 4. On May 28, 2014 Citadel Escrow filed an incomplete application with the
13 Commissioner, requesting approval to operate a branch office in Woodland Hills, California. During
14 the application process, Citadel Escrow changed the proposed branch office to Porter Ranch,
15 California.

16 5. On June 26, 2014, the Commissioner issued a deficiency letter, identifying seven (7)
17 issues needing resolution before the application's approval. Citadel Escrow failed to provide the
18 Commissioner with documentation needed to finalize the application.

19 6. On or around April 30, 2015, the Commissioner received an anonymous tip that
20 Citadel Escrow was operating an unlicensed branch from 11145 Tampa Avenue, Suite 26A in Porter
21 Ranch, California (the "Porter Ranch branch"). The consumer reportedly opened an escrow from
22 that office on April 29, 2015.

23 7. The Commissioner commenced a special examination of Citadel Escrow on May 4,
24 2015 which revealed that Citadel Escrow employed five (5) persons¹ at the Porter Ranch branch
25 from January 1, 2015 through May 4, 2015. These employees met with clients, opened escrow files,
26 collected deposits, and filled-out paper work at the unlicensed branch location in violation of
27

28 ¹ Including a senior escrow officer, two escrow officers, and two assistants.

1 Financial Code section 17213.5. Citadel Escrow also conducted business under the name “Citadel
2 Escrow Marketing Division” from this branch without the Commissioner’s approval in violation of
3 Financial Code section 17213, subdivision (a). The escrows opened at the Porter Ranch branch were
4 then processed in the Artesia branch office in violation of Financial Code section 17213.1.

5 8. On May 11, 2015, Citadel Escrow agreed to discontinue business activities from the
6 unlicensed Porter Ranch branch.

7 b. Citadel Escrow Paid Unlawful Referral Fees to Real Estate Agents,
8 Manipulated the General Ledger to Record These Payments As Employee
9 Commissions, and Made Willful, Material Misrepresentations to the
10 Commissioner About These Payments

11 9. On or around August 12, 2015, the Commissioner commenced a special examination
12 of Citadel Escrow’s books and records. The examination revealed that Hom signed checks from
13 Citadel Escrow’s general account, paying non-employee real estate agents, brokers, and their wives
14 \$220,036.77, in exchange for client referrals in violation of Financial Code section 17420.

15 10. For example, from at least May 8, 2014 to June 5, 2015, Citadel Escrow paid referral
16 fees in the amount of: \$28,071.60 to real estate agent Timothy Hardin and broker Real Champions,
17 Inc.,² \$38,000.00 to Timothy Hardin’s wife, Meredith Hardin; and \$39,000.00 to Brian Bean’s wife,
18 Alisa Bean. These payments, aggregating \$105,071.60, were made in exchange for client referrals
19 and solicitations in violation of Financial Code section 17420.

20 11. During this time, Citadel Escrow also provided flyers to real estate agents and brokers
21 and financially sponsored seminars in exchange for referral business in violation of Financial Code
22 section 17420.

23 12. Citadel Escrow manipulated its 2014 and 2015 general ledgers to conceal these
24 unlawful referral fees and payments by recording them as “contract labor,” “commission only
25 employees,” and “temporary help” in violation of Financial Code section 17702.

26 _____
27 ² Timothy Hardin and Brian Bean were the owners of Dream Big, Inc. d/b/a Dream Big Real Estate,
28 which eventually merged with and became Real Champions, Inc. d/b/a Realty ONE Group
Champions.

1 13. In response to the Commissioner's special examination, on October 19, 2015, Hom
2 and Citadel Escrow misrepresented to the Commissioner that the 2014 and 2015 "contract labor" and
3 "commission" expenses were payments made to "employees," and that Citadel Escrow was "remiss"
4 in reporting these "employees" to the Commissioner. Among the persons listed as "employees" were
5 Timothy Hardin and Alissa Bean.

6 14. On March 15, 2016, Hom, on behalf of Citadel Escrow, admitted that nine (9) persons
7 previously reported to the Department as "employees" were not, and had never been employees,
8 including Timothy Hardin and Alisa Bean. Hom and Citadel Escrow willfully made untrue
9 statements of a material fact regarding the employment status of at least nine (9) persons and
10 payments made to such persons in reports filed with the Commissioner in violation of Financial
11 Code section 17702.

12 15. On March 17, 2016, Hom admitted to the Commissioner's examiner that he
13 knowingly paid referral fees and provided real estate agents and brokers marketing support in
14 violation of Financial Code section 17420.

15 c. Citadel Escrow Failed to Report Employees With Access to Citadel's Trust
16 Account to the Commissioner

17 16. From approximately February 2013 to approximately July 2015, Citadel Escrow
18 failed to report at least nine (9) employees, reported seven (7) employees late, and failed to forward
19 these employees' fingerprint and related information to the Commissioner in violation of Financial
20 Code sections 17414.1, subdivision (d) and 17419.

21 17. During this time, Citadel Escrow provided unreported employees with access to
22 Citadel Escrow's trust account in violation of Title 10, California Code Regulations, section 1726.

23 d. Citadel Escrow Failed to File Complete, Timely Reports with the
24 Commissioner

25 18. Under Financial Code section 17404, escrow agents are required to keep and maintain
26 books and records which will enable to Commissioner to determine whether the escrow agent is
27 operating in compliance with the Escrow Law. Under Financial Code section 17405, these books and
28 records are subject to the Commissioner's inspection and review at any time without prior notice.

 19. *2014 Contract Labor Expense.* On August 12, October 9, and December 2, 2015, the

1 Commissioner demanded books and records (including all supporting documentation, contracts and
2 invoices) to support Citadel Escrow's 2014 contract labor expense in the amount of \$757,404.00. To
3 date, Citadel Escrow has not provided the Commissioner with documents to fully support these
4 expenses in violation of Financial Code section 17405.

5 20. *2015 Commission Expense.* On December 2, 2015 and February 18, 2016, the
6 Commissioner demanded books and records (including all supporting documentation, contracts, and
7 invoices) to support Citadel Escrow's 2015 commission expense in the amount of \$1,811,553.00.
8 To date, Citadel Escrow has not provided the Commissioner with documents to fully support these
9 expenses in violation of Financial Code section 17405.

10 21. *Employment Records.* February 18, 2016, the Commissioner requested Citadel
11 Escrow to submit fingerprint information and updated employment forms for all current employees.
12 To date, Citadel Escrow has not provided the requested information for three of its employees, M.O.,
13 R.C., and J.S. in violation of Financial Code section 17405.

14 22. *Real Estate Agent and Broker Marketing Support.* On or around January 8, 2016, the
15 Commissioner received an anonymous tip that Citadel Escrow provided real estate agents and
16 brokers with marketing support in violation of Financial Code section 17420. On February 18, 2016,
17 the Commissioner demanded an explanation and samples of all marketing materials. On March 2,
18 2016, Citadel Escrow produced sample flyers provided to real estate agents, agreed to continue to
19 investigate and provide further documents responsive to the Commissioner's demand. To date,
20 Citadel Escrow has not provided any additional documents or confirmed that there are no further
21 documents responsive in violation of Financial Code section 17405.

22 e. Citadel Escrow Failed to Disclose Peter Hom's Affiliation to the Buyer in
23 Escrow Instructions

24 23. Citadel Escrow acted as the escrow agent in the July 2014 sale of Hom's property in
25 Oak Park, California. The escrow instructions failed to disclose Hom's affiliation as Citadel
26 Escrow's sole shareholder, sole director, and president in violation of Title 10, California Code of
27 Regulations section 1740.1.

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f. Citadel Escrow Failed to Maintain Its Books, Records, and Accounts in Accordance with Good Business Practices

24. Based on the facts alleged herein, from June 30, 2014 to the present, Citadel Escrow failed to maintain its books, records, and accounts in accordance with good business practices in violation of CCR 1732.

III

Law

Underlying Violations

25. Financial Code section 17213, subdivision (a) provides:

An escrow agent shall not transact business pursuant to this division under any other name than that set forth in the articles of incorporation as filed with the commissioner.

26. Financial Code section 17213.1, subdivision (a) provides in relevant part:

An escrow agent's business shall not be removed from the premises or address shown on the license without the prior approval of the commissioner, and notice of any intended change shall be transmitted to the commissioner not less than 30 days prior to the date of the intended change of location

27. Financial Code section 17213.5 provides in relevant part:

Licenses of this division shall be entitled to establish additional business office locations by compliance with all of the following:

(a) Filing with the commissioner notice of the intended address, or addresses.

(b) Payment of the fees prescribed in Section 17207.

(c) Filing with the commissioner any additional bonds for the purposes set forth in Sections 17202 and 17203. . . .

(d) Filing with the commissioner financial statements prepared in accordance with generally accepted accounting principles. If the licensee's fiscal year end is more than six months before the date of filing the application, the commissioner may require current financial statements which shall not be more than 60 days old. The interim financial statements may be unaudited.

(e) Filing with the commissioner the names and addresses of the

licensee's owners and employees to be stationed at the new location, showing that the operation of the additional office, or offices, will be under the complete management and control of the parent licensee.

(f) Filing with the commissioner statements offsetting and meeting each of the conditions set forth in Section 17209.3.

28. Financial Code section 17405 provides in relevant part:

(a) The business, accounts and records of every person performing as an escrow agent, whether required to be licensed under this division or not, are subject to inspection and examination by the commissioner at any time without prior notice. The provisions of this section shall not apply to persons specified in Section 17006.

(b) Any person subject to this division shall, upon request, exhibit and allow inspection and copying of any books and records by the commissioner or his or her authorized representative.

29. Financial Code section 17414.1, subdivision (d) provides in relevant part:

On or before the 10th day of employment, each escrow agent shall obtain and forward to the commissioner the fingerprint images and related information of persons seeking employment by an escrow agent. . . .

30. Financial Code section 17419 provides in relevant part:

On and after January 1, 1992, any person seeking employment with an escrow agent shall complete an employment application on or before the first day of employment which includes, at least, the following information. A copy of the employment application shall be forwarded to the commissioner on or before the first day of the applicant's employment. . . .

31. Financial Code section 17420 provides in relevant part:

Except for the normal compensation of his own employees, it shall be a violation of this division for any person subject to this division to pay over to any other person any commission, fee, or other consideration as compensation for referring, soliciting, handling, or servicing escrow customers or accounts.

32. Financial Code section 17702 provides:

It is unlawful for any person to willfully make any untrue statement of a material fact in any application, notice, or report filed with the

commissioner under this division or the regulations issued thereunder, or to willfully omit any material fact which is required to be stated in any application, notice, or report.

33. Title 10, California Code of Regulations section 1726 provides in relevant part:

(a) . . . the escrow agent shall notify the Commissioner, on the form set forth in subdivision (b) furnished by the Commissioner, the names of any officer, director, trustee, employee or other person directly or indirectly compensated by the escrow agent before allowing the person in the regular discharge of his/her duties to have access to moneys or negotiable securities belonging to or in the possession of the escrow agent, or to draw checks upon the escrow agent or the trust funds of the escrow agent.

34. Title 10, California Code of Regulations section 1732 provides:

An escrow agent shall maintain its books, records and accounts in accordance with generally accepted accounting principles and good business practice.

35. Title 10, California Code of Regulations section 1740.1 provides:

An escrow agent shall act without partiality to any of the parties to an escrow transaction. If an escrow agent or a person or company related to or affiliated with the escrow agent is a principal to the escrow transaction or is acting or has acted as broker or salesman in relation to the escrow transaction, the escrow agent shall advise in writing all parties to the escrow transaction of such relationship or affiliation before being employed as escrow agent in connection with such transaction. Such advice shall be on the face of the escrow instructions in not less than eight (8) point bold type. Internet escrow agents may transmit the advice electronically over the Internet to all parties to the escrow transaction.

Basis for the Order to Discontinue Violations

36. Financial Code section 17602 provides:

If it appears to the commissioner that any licensed escrow agent has violated its articles of incorporation, or any law or rule binding upon it, the commissioner shall, by written order addressed to the agent direct the discontinuance of such violation. The order shall be effective immediately, but shall not become final except in accordance with the provisions of Section 17604.

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No order issued pursuant to Sections 17602 or 17603 may become final except after notice to any licensed escrow agent affected thereby of the intention of the commissioner to make such order final and of the reasons therefor and that upon receipt of a request the matter will be set down for hearing to commence within 15 business days after such receipt unless the licensed agent affected consents to a later date. If no hearing is requested within 30 days after the mailing of such notice and none is ordered by the commissioner, the order may become final without hearing and the licensed escrow agent shall immediately discontinue the practices named in the order. If a hearing is requested or ordered, it shall be held in accordance with the provisions of the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner shall have all of the powers granted thereunder. If upon the hearing, it appears to the commissioner that the licensed agent is conducting business in an unsafe and injurious manner or is violating its articles of incorporation or any law of this state, or any rule binding upon it, the commissioner shall make the order of discontinuance final and the licensed escrow agent shall immediately discontinue the practices named in the order.

Conclusion

WHEREFORE, good cause showing, the Commissioner of Business Oversight is issuing an Order to Discontinue Violations under Financial Code section 17602 and notifying Citadel Escrow Inc of her intention to make the order final under Financial Code section 17604.

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
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Senior Counsel, Enforcement Division